

ASSEMBLY BILL

No. 1371

**Introduced by Assembly Member Lackey
(Principal coauthor: Assembly Member Olsen)**

February 27, 2015

An act to amend Section 17072 of, and to add and repeal Section 17052.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as introduced, Lackey. Personal income taxes: deduction: education expenses.

The Personal Income Tax Law allows various deductions in computing income that is subject to tax under that law.

This bill, for taxable years on or after January 1, 2016, and before January 1, 2021, would allow a deduction from gross income, not to exceed \$2,500, for the cost of education-related expenses of the taxpayer's dependent child or children attending public or private school, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) While ensuring the quality education of all of California's
2 school children is a shared responsibility of the general public, it
3 is foremost the duty of individual parents and teachers.

4 (b) Providing tax relief for citizens who shoulder an extra weight
5 in pursuit of the common good has long been considered sound
6 public policy.

7 (c) Every school year, kindergarten and grades 1 to 12, inclusive,
8 parents across California pay at their own expense to obtain vital
9 educational resources and services that are essential to those
10 children entrusted to their parents' care.

11 (d) State education tax relief can help empower and engage low-
12 and middle-income families in personally caring for their own
13 school children's learning needs, which they know most intimately.

14 SEC. 2. Section 17052.5 is added to the Revenue and Taxation
15 Code, to read:

16 17052.5. (a) For each taxable year beginning on or after
17 January 1, 2016, and before January 1, 2021, there shall be allowed
18 as a deduction an amount equal to the qualified amount that was
19 paid or incurred for qualified education-related expenses for one
20 or more dependent children by a qualified taxpayer during the
21 taxable year.

22 (b) For purposes of this section:

23 (1) "Dependent children" means children who attend
24 kindergarten or any of grades 1 to 12, inclusive, in California at a
25 public, charter, or private school that has a current private school
26 affidavit on file with the State Department of Education in the
27 taxable year and who meet the requirements of Section
28 152(c)(1)(D) and (E) of the Internal Revenue Code.

29 (2) "Qualified amount" means the amount paid or incurred for
30 qualified education-related expenses, not to exceed the amount
31 specified in subdivision (c).

32 (3) (A) "Qualified education-related expenses" means the
33 kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks
34 and school supplies, including, but not limited to, pens, paper,
35 pencils, notebooks, calculators, and rulers; the rental or purchase
36 of educational equipment required for classes during the regular
37 schoolday; school uniforms that are not part of a cocurricular
38 activity; computers, computer hardware, and educational computer
39 software used to learn academic subjects; fees for college courses
40 at public institutions or independent nonprofit colleges, or for

1 summer school courses that satisfy high school graduation
2 requirements; psychoeducational diagnostic evaluations to assess
3 the cognitive and academic abilities of pupils; special education
4 and related services for pupils who have an individualized
5 education program or its equivalent; out-of-school enrichment
6 programs, tutoring, and summer programs that are academic in
7 nature; and public transportation or third-party transportation
8 expenses for traveling directly to and from school.

9 (B) “Qualified education-related expenses” shall not include
10 any expenses for the items described in subparagraph (A) that also
11 are used in a trade or business.

12 (4) “Qualified taxpayer” means a parent or legal guardian of a
13 full-time pupil who is under 21 years of age at the close of the
14 school year who meets both of the following requirements:

15 (A) Both the pupil and the parent or guardian reside in California
16 when the qualified education-related expenses are paid or incurred.

17 (B) (i) The household income does not exceed 250 percent of
18 the federal Income Eligibility Guidelines published by the Food
19 and Nutrition Service of the United States Department of
20 Agriculture for use in determining eligibility for reduced price
21 meals.

22 (ii) Household income means gross income as defined in Section
23 61 of the Internal Revenue Code.

24 (c) The total deduction allowed under this section to a qualified
25 taxpayer shall not exceed two thousand five hundred dollars
26 (\$2,500) in a taxable year. If more than one qualified taxpayer may
27 be allowed this deduction for a dependent child, the sum of all
28 deductions allowed under this section for that dependent child
29 shall not exceed two thousand five hundred dollars (\$2,500) in a
30 taxable year.

31 (d) (1) The Franchise Tax Board may prescribe rules,
32 guidelines, or procedures necessary or appropriate to carry out the
33 purposes of this section.

34 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code shall not apply to
36 any standard, criterion, procedure, determination, rule, notice, or
37 guideline established or issued by the Franchise Tax Board
38 pursuant to this section.

39 (e) This section shall remain in effect only until December 1,
40 2021, and as of that date is repealed.

1 SEC. 3. Section 17072 of the Revenue and Taxation Code is
2 amended to read:

3 17072. (a) Section 62 of the Internal Revenue Code, relating
4 to adjusted gross income defined, shall apply, except as otherwise
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
7 to certain expenses of elementary and secondary school teachers,
8 shall not apply.

9 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
10 attorneys fees relating to awards to whistleblowers, shall not apply.

11 (d) *Section 62(a) of the Internal Revenue Code is modified to*
12 *provide that the deduction under Section 17052.5 shall be allowed*
13 *in determining adjusted gross income.*

14 SEC. 4. It is the intent of the Legislature to make the findings
15 required by Section 41 of the Revenue and Taxation Code.

16 SEC. 5. This act provides for a tax levy within the meaning of
17 Article IV of the Constitution and shall go into immediate effect.